

111TH CONGRESS
1ST SESSION

H. R. 4016

To reauthorize the hazardous material safety program, ensure the safe transport of hazardous material in all modes of transportation, and reduce the risks to life and property inherent in the commercial transportation of hazardous material, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2009

Mr. OBERSTAR introduced the following bill; which was referred to the
Committee on Transportation and Infrastructure

A BILL

To reauthorize the hazardous material safety program, ensure the safe transport of hazardous material in all modes of transportation, and reduce the risks to life and property inherent in the commercial transportation of hazardous material, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hazardous Material Transportation Safety Act of 2009”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to title 49, United States Code.
- Sec. 3. General definitions.

TITLE I—STRENGTHENING EMERGENCY RESPONSE CAPABILITIES AND INFORMATION

- Sec. 101. Minimum standards for emergency response information services.
- Sec. 102. Training for emergency responders.
- Sec. 103. Assessment of volunteer firefighter training capabilities.
- Sec. 104. National hazardous materials fusion center.
- Sec. 105. Paperless hazard communications pilot program.

TITLE II—STRENGTHENING HAZARDOUS MATERIAL SAFETY

- Sec. 201. Transportation of lithium cells and batteries on board aircraft.
- Sec. 202. Requirements relating to external product piping on cargo tanks transporting flammable liquid.
- Sec. 203. Improving data collection, analysis, and reporting.

TITLE III—STRENGTHENING ENFORCEMENT

- Sec. 301. Hazardous material enforcement training program.
- Sec. 302. Inspections and investigations.
- Sec. 303. Civil penalties.
- Sec. 304. Additional resources.

TITLE IV—MISCELLANEOUS

- Sec. 401. Special permits, approvals, and exclusions.
- Sec. 402. Uniform hazardous material State registration and permit program.
- Sec. 403. Regular reporting on use of fees.
- Sec. 404. Implementation of the hazardous material safety permit program.
- Sec. 405. Authorization of appropriations.

1 **SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or repeal is expressed in terms
4 of an amendment to, or a repeal of, a section or other
5 provision, the reference shall be considered to be made to
6 a section or other provision of title 49, United States
7 Code.

8 **SEC. 3. GENERAL DEFINITIONS.**

9 In this Act, the following definitions apply:

1 (1) DEPARTMENT.—The term “Department”
2 means the Department of Transportation.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of Transportation.

5 **TITLE I—STRENGTHENING**
6 **EMERGENCY RESPONSE CA-**
7 **PABILITIES AND INFORMA-**
8 **TION**

9 **SEC. 101. MINIMUM STANDARDS FOR EMERGENCY RE-**
10 **SPONSE INFORMATION SERVICES.**

11 (a) IN GENERAL.—Not later than 24 months after
12 the date of enactment of this Act, the Secretary shall pre-
13 scribe, by regulation, minimum standards for persons who
14 provide hazardous material transportation emergency re-
15 sponse information services required or governed by regu-
16 lations prescribed under chapter 51 of title 49, United
17 States Code.

18 (b) AUTHORITY.—Section 5103(b)(1)(A) is amend-
19 ed—

20 (1) in clause (vi) by striking “or” after the
21 semicolon;

22 (2) by redesignating clause (vii) as clause (viii);

23 (3) in clause (viii), as so redesignated, by strik-
24 ing “through (vi)” and inserting “through (vii)”;
25 and

1 (4) by inserting after clause (vi) the following:

2 “(vii) provides hazardous material
3 transportation emergency response infor-
4 mation services required or governed by
5 regulations prescribed under this chapter;
6 or”.

7 **SEC. 102. TRAINING FOR EMERGENCY RESPONDERS.**

8 (a) OPERATIONS LEVEL TRAINING.—Section 5116 is
9 amended—

10 (1) in subsection (b)(1) by adding at the end
11 the following: “To the extent that a grant is used to
12 train emergency responders, the State or Indian
13 tribe shall certify, in writing, to the Secretary that
14 the emergency responders who receive training under
15 the grant, at a minimum, will have the ability to
16 protect nearby persons, property, and the environ-
17 ment from the effects of accidents or incidents in-
18 volving the transportation of hazardous material in
19 accordance with existing regulations or National
20 Fire Protection Association Standard 472.”;

21 (2) in subsection (i)(4) by striking “2 percent”
22 and inserting “4 percent”;

23 (3) in subsection (j)—

24 (A) by redesignating paragraph (5) as
25 paragraph (7); and

1 (B) by inserting after paragraph (4) the
2 following:

3 “(5) The Secretary may make a grant to an or-
4 ganization under this subsection only if the organi-
5 zation ensures that emergency responders who re-
6 ceive training under the grant, at a minimum, will
7 have the ability to protect nearby persons, property,
8 and the environment from the effects of accidents or
9 incidents involving the transportation of hazardous
10 material in accordance with existing regulations or
11 National Fire Protection Association Standard 472.

12 “(6) Notwithstanding paragraphs (1) and (3),
13 to the extent determined appropriate by the Sec-
14 retary, a grant made by the Secretary to an organi-
15 zation under this subsection to conduct hazardous
16 material response training programs may be used to
17 train individuals with statutory responsibility to re-
18 spond to accidents and incidents involving hazardous
19 material.”; and

20 (4) in subsection (k)—

21 (A) by striking “The Secretary shall sub-
22 mit annually” and inserting “Not later than
23 March 1, 2010, and every 2 years thereafter,
24 the Secretary shall submit”; and

1 (B) by striking the second sentence and in-
 2 serting the following: “The report shall identify
 3 the ultimate recipients of such grants and in-
 4 clude—

5 “(1) a detailed accounting and description of
 6 each grant expenditure by each grant recipient, in-
 7 cluding the amount of and purpose for each expendi-
 8 ture;

9 “(2) the number of persons trained under the
 10 grant program by training level;

11 “(3) an evaluation of the efficacy of such train-
 12 ing; and

13 “(4) any recommendations the Secretary may
 14 have for improving such grant programs.”.

15 (b) TRAINING CURRICULUM.—Section 5115 is
 16 amended in each of subsections (b)(1)(B), (b)(2), and (c)
 17 by striking “basic”.

18 **SEC. 103. ASSESSMENT OF VOLUNTEER FIREFIGHTER**
 19 **TRAINING CAPABILITIES.**

20 (a) ASSESSMENT.—

21 (1) IN GENERAL.—The Secretary may conduct
 22 an assessment of the existing training capabilities of,
 23 and delivery methods available for the preparedness
 24 and training of, volunteer fire services personnel to

1 safely respond to accidents and incidents involving
2 the transportation of hazardous material.

3 (2) CONSULTATION.—In carrying out the as-
4 sessment, the Secretary may collaborate with the na-
5 tional hazardous materials fusion center established
6 under section 5128 of title 49, United States Code,
7 (as added by section 104 of this Act) and organiza-
8 tions representing volunteer fire services personnel.

9 (b) PILOT PROGRAM.—

10 (1) IN GENERAL.—Upon completion of the as-
11 sessment, the Secretary may carry out a volunteer
12 firefighter hazardous material training pilot program
13 based on the results of the assessment.

14 (2) ACTIVITIES.—Under the pilot program, the
15 Secretary, in order to assist volunteer fire services
16 personnel in safely responding to accidents and inci-
17 dents involving the transportation of hazardous ma-
18 terial, may—

19 (A) develop innovative measures for deliv-
20 ering training;

21 (B) determine authorized training pro-
22 grams that are eligible for reimbursement from
23 the Secretary;

24 (C) provide assistance to volunteer fire
25 services personnel to enable the acquisition of

1 training materials and supplies and to support
2 preparedness training and exercises; and

3 (D) coordinate with Federal, State, and
4 local agencies to foster the exchange of fire-re-
5 lated training information and resources.

6 (c) REPORT.—Upon completion of the assessment
7 and, if applicable, the pilot program, the Secretary shall
8 transmit to the Committee on Transportation and Infra-
9 structure of the House of Representatives and the Com-
10 mittee on Commerce, Science, and Transportation of the
11 Senate a report on the results of the assessment and pilot
12 program, including any recommendations for strength-
13 ening training for volunteer firefighters to safely respond
14 to accidents and incidents involving the transportation of
15 hazardous material.

16 **SEC. 104. NATIONAL HAZARDOUS MATERIALS FUSION CEN-**
17 **TER.**

18 (a) IN GENERAL.—Chapter 51 is amended by redes-
19 ignating section 5128 as section 5129 and by inserting
20 after section 5127 the following:

21 **“§ 5128. National hazardous materials fusion center**

22 “(a) IN GENERAL.—The Secretary shall establish
23 and maintain a national hazardous materials fusion center
24 to serve as a data and information network for emergency
25 response providers, Federal, State, and local government

1 agencies, and for-profit and nonprofit organizations that
2 are engaged in hazardous material response.

3 “(b) DUTIES.—The center shall—

4 “(1) enhance emergency response provider com-
5 munication and safety with respect to accidents and
6 incidents involving the transportation of hazardous
7 material;

8 “(2) improve decisionmaking for the prevention
9 and mitigation of such accidents and incidents;

10 “(3) establish and operate regional incident sur-
11 vey teams to—

12 “(A) determine lessons learned from emer-
13 gency response providers involved in such acci-
14 dents or incidents;

15 “(B) develop best practices for responding
16 to such accidents or incidents; and

17 “(C) improve curricula and training mate-
18 rials for emergency response providers in re-
19 sponding to such accidents and incidents; and

20 “(4) collect and analyze data from the re-
21 sponses to accidents and incidents involving the
22 transportation of hazardous material in order to un-
23 derstand accident and incident trends and patterns
24 and develop recommendations for performance meas-
25 ures for the safe response to hazardous material ac-

1 cidents and incidents, including the safety of emer-
2 gency response providers and the public.

3 “(c) DEFINITIONS.—In this section, the following
4 definitions apply:

5 “(1) EMERGENCY RESPONSE PROVIDER.—The
6 term ‘emergency response provider’ includes Federal,
7 State, and local governmental and nongovernmental
8 emergency public safety, fire, law enforcement,
9 emergency response, emergency medical (including
10 hospital emergency facilities), and related personnel,
11 agencies, and authorities.

12 “(2) REGIONAL INCIDENT SURVEY TEAM.—The
13 term ‘regional incident survey team’ means a team
14 that is established by the national hazardous mate-
15 rials fusion center and that is composed of persons
16 who are skilled by reason of education, training, or
17 experience in responding to hazardous material acci-
18 dents and incidents.

19 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
20 is authorized to be appropriated to carry out this section
21 \$1,000,000 for each of fiscal years 2011, 2012, 2013, and
22 2014.”.

23 (b) CLERICAL AMENDMENT.—The analysis for such
24 chapter is amended by striking the item relating to section

1 5128 and inserting after the item relating to section 5127
 2 the following:

“5128. National hazardous materials fusion center.
 “5129. Authorization of appropriations.”.

3 **SEC. 105. PAPERLESS HAZARD COMMUNICATIONS PILOT**
 4 **PROGRAM.**

5 (a) IN GENERAL.—The Secretary may conduct 3
 6 pilot projects, at least 1 of which shall be in a rural area,
 7 to evaluate the feasibility and effectiveness of using
 8 paperless hazard communications systems.

9 (b) REQUIREMENTS.—In conducting the pilot
 10 projects, the Secretary—

11 (1) may not waive the requirements of section
 12 5110 of title 49, United States Code; and

13 (2) shall consult with organizations rep-
 14 resenting—

15 (A) fire services personnel;

16 (B) law enforcement and other appropriate
 17 enforcement personnel;

18 (C) other emergency response providers;

19 (D) persons who offer hazardous material
 20 for transportation;

21 (E) persons who transport hazardous ma-
 22 terial by air, highway, rail, and water; and

1 (F) employees of persons who transport or
2 offer for transportation hazardous material by
3 air, highway, rail, and water.

4 (c) REPORTS.—

5 (1) INTERIM REPORT.—Not later than 3 years
6 after the date of enactment of this Act, the Sec-
7 retary shall—

8 (A) prepare an interim report on the re-
9 sults of the pilot projects carried out under this
10 section, including—

11 (i) a detailed description of the pilot
12 projects;

13 (ii) an evaluation of each pilot project,
14 including an evaluation of the performance
15 of each paperless hazard communications
16 system in such project;

17 (iii) an assessment of the safety and
18 security impact of using paperless hazard
19 communications systems, including any im-
20 pact on the public, emergency response,
21 law enforcement, and the conduct of in-
22 spections and investigations; and

23 (iv) a recommendation on whether
24 paperless hazard communications systems
25 should be incorporated into the Federal

1 hazardous material transportation safety
2 program under chapter 51 of title 49,
3 United States Code, on a permanent basis;
4 and

5 (B) transmit such interim report to the or-
6 ganizations consulted under subsection (b)(2)
7 and request that such organizations provide
8 written comments in response to the interim re-
9 port within 60 days.

10 (2) FINAL REPORT.—Not later than 120 days
11 after transmitting the interim report to the organi-
12 zations consulted under subsection (b)(2), the Sec-
13 retary shall transmit to the Committee on Transpor-
14 tation and Infrastructure of the House of Represent-
15 atives and the Committee on Commerce, Science,
16 and Transportation of the Senate a final report on
17 the results of the pilot projects carried out under
18 this section, including the matter described in para-
19 graph (1)(A) and any written comments received
20 pursuant to paragraph (1)(B).

21 (d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM
22 DEFINED.—In this section, the term “paperless hazard
23 communications system” means the use of advanced com-
24 munications methods, such as wireless communications
25 devices, to convey hazard information between all parties

1 in the transportation chain, including emergency respond-
2 ers and law enforcement personnel.

3 **TITLE II—STRENGTHENING**
4 **HAZARDOUS MATERIAL SAFETY**

5 **SEC. 201. TRANSPORTATION OF LITHIUM CELLS AND BAT-**
6 **TERIES ON BOARD AIRCRAFT.**

7 (a) IN GENERAL.—Chapter 51 is amended by insert-
8 ing after section 5110 the following:

9 **“§ 5111. Transportation of lithium cells and batteries**
10 **on board aircraft**

11 “(a) REVISIONS TO CURRENT REGULATIONS.—Not
12 later than 24 months after the date of enactment of the
13 Hazardous Material Transportation Safety Act of 2009,
14 the Administrator of the Pipeline and Hazardous Mate-
15 rials Safety Administration, in coordination with the Ad-
16 ministrator of the Federal Aviation Administration, shall
17 issue regulations in accordance with this section to provide
18 for the safe transportation of lithium cells and batteries
19 on board aircraft.

20 “(b) REQUIREMENTS.—In carrying out subsection
21 (a), the Administrator of the Pipeline and Hazardous Ma-
22 terials Safety Administration, at a minimum, shall—

23 “(1) require packages containing lithium cells
24 and batteries to be identified as hazardous material
25 in a manner that clearly conveys the properties, haz-

1 ards, and dangers of such cells and batteries on such
2 packages and in shipping documents;

3 “(2) establish requirements for testing and re-
4 testing lithium cells and batteries that, at a min-
5 imum, are equivalent to the United Nations testing
6 regime;

7 “(3) provide for an appropriate marking or
8 other measure that indicates that lithium cells and
9 batteries are in compliance with the requirements es-
10 tablished under paragraph (2);

11 “(4) adopt a watt-hours requirement in lieu of
12 equivalent lithium content to provide a more easily
13 understood measure of the hazard posed by lithium-
14 ion cells and batteries;

15 “(5) establish appropriate packaging perform-
16 ance requirements, including outer packaging per-
17 formance requirements, for lithium cells and bat-
18 teries to minimize risk during transportation on
19 board aircraft, including the prevention of short-
20 circuiting, overheating, initiation of fires, and fire
21 propagation;

22 “(6) establish limits on the number of packages
23 containing lithium cells and batteries that may be
24 transported in a unit load device, pallet, or container
25 on board an aircraft based on the watt-hour rating

1 of the total number of lithium cells and batteries in
2 a package;

3 “(7) limit the stowage of lithium cells and bat-
4 teries to crew accessible locations on aircraft, unless
5 such cells and batteries are transported in a fire-re-
6 sistant container or the aircraft contains a fire sup-
7 pression system capable of extinguishing or control-
8 ling a fire involving a lithium cell or battery; and

9 “(8) require reporting of all accidents and inci-
10 dents involving lithium cells and batteries that occur
11 on board an aircraft or during loading or unloading
12 operations or storage incidental to movement and re-
13 quire retention of the failed cells and batteries for
14 evaluation purposes.

15 “(c) BATTERIES SHIPPED FOR PERSONAL USE.—
16 The Administrator, in coordination with the Administrator
17 of the Federal Aviation Administration, shall except from
18 the regulations established under subsection (a) small
19 quantities of lithium cells or batteries that are shipped on
20 board aircraft for the personal use of the receiver of the
21 shipment.

22 “(d) REVIEW OF EXEMPTIONS.—The Administrator
23 of the Pipeline and Hazardous Materials Safety Adminis-
24 tration, in coordination with the Administrator of the Fed-
25 eral Aviation Administration, shall review all special per-

1 mits and approvals issued by the Administrator that allow
2 holders of and parties to such special permits and approv-
3 als to deviate from requirements for the transportation of
4 lithium cells or batteries on board aircraft to determine
5 if such special permits and approvals should be terminated
6 or modified to reflect regulations established pursuant to
7 this section.

8 “(e) TRANSPORTATION OF DEFECTIVE OR DAMAGED
9 BATTERIES.—

10 “(1) IN GENERAL.—The Administrator of the
11 Pipeline and Hazardous Materials Safety Adminis-
12 tration, in coordination with the Administrator of
13 the Federal Aviation Administration, shall prohibit
14 the transportation on board aircraft of lithium cells
15 and batteries identified by the manufacturer or a
16 Federal Government entity as being defective for
17 safety reasons or damaged and that have the poten-
18 tial of producing heat or fire or short-circuiting on
19 board aircraft. The Administrator of the Pipeline
20 and Hazardous Materials Safety Administration
21 shall establish appropriate safety measures for
22 transporting (other than on board aircraft) such de-
23 fective or damaged lithium cells and batteries.

24 “(2) RECALLS.—When such lithium cells or
25 batteries are recalled for safety reasons, the Admin-

1 istrator of the Pipeline and Hazardous Materials
2 Safety Administration, in consultation with the Con-
3 sumer Product Safety Commission, shall establish a
4 mechanism for appropriate notification to the manu-
5 facturer and consumers that these items are prohib-
6 ited from being transported on board aircraft.

7 “(f) SIMPLIFICATION AND CONSOLIDATION OF RE-
8 QUIREMENTS.—

9 “(1) IN GENERAL.—The Administrator of the
10 Pipeline and Hazardous Materials Safety Adminis-
11 tration, in coordination with the Administrator of
12 the Federal Aviation Administration, shall consoli-
13 date and simplify for clarity, ease of understanding,
14 and use the regulations of the Department of Trans-
15 portation governing requirements for the transpor-
16 tation of lithium cells and batteries on board air-
17 craft.

18 “(2) EDUCATION.—The Administrator of the
19 Pipeline and Hazardous Materials Safety Adminis-
20 tration, in coordination with the Administrator of
21 the Federal Aviation Administration, shall review
22 and modify, as necessary, the existing program to
23 educate and provide guidance to the air traveling
24 public, including flight crews, about how to safely
25 carry authorized lithium cells or batteries or elec-

1 tronic devices containing such cells or batteries on
2 board an aircraft and shall establish a process to pe-
3 riodically measure the effectiveness of efforts to edu-
4 cate the air traveling public, including flight crews.

5 “(g) NONPREEMPTION OF CERTAIN REGULA-
6 TIONS.—

7 “(1) PRIMARY LITHIUM BATTERIES.—The Sec-
8 retary shall continue in effect the prohibition on the
9 transportation of primary lithium batteries and cells
10 on board passenger-carrying aircraft, unless the Sec-
11 retary issues, through publication in the Federal
12 Register, a determination that such prohibition must
13 be modified or withdrawn.

14 “(2) PASSENGER EXCEPTION.—Notwith-
15 standing paragraph (1), the exceptions provided for
16 passengers, crew members, and air operators in sec-
17 tion 175.10 of title 49, Code of Federal Regulations,
18 shall remain in effect unless the Secretary issues,
19 through publication in the Federal Register, a deter-
20 mination that the regulation in such section must be
21 modified or withdrawn for safety reasons.

22 “(h) DEFINITIONS.—In this section:

23 “(1) BATTERY.—The term ‘battery’ means 1 or
24 more cells that are electrically connected by perma-

1 nent means and includes the case, terminals, and
2 markings.

3 “(2) CELL.—The term ‘cell’ means a single en-
4 cased electrochemical unit (1 positive and 1 negative
5 electrode) that exhibits a voltage differential across
6 its 2 terminals.

7 “(3) LITHIUM CELL OR BATTERY.—The term
8 ‘lithium cell or battery’ means a primary lithium cell
9 or battery or a lithium-ion cell or battery.

10 “(4) LITHIUM-ION CELL OR BATTERY.—The
11 term ‘lithium-ion cell or battery’ means a recharge-
12 able electrochemical cell or battery in which the posi-
13 tive and negative electrodes are both intercalation
14 compounds constructed with no metallic lithium in
15 either electrode. A lithium polymer cell or battery
16 that uses lithium-ion chemistries shall be considered
17 to be a lithium-ion cell or battery.

18 “(5) PRIMARY LITHIUM CELL OR BATTERY.—
19 The term ‘primary lithium cell or battery’ means a
20 lithium metal cell or battery that is not designed to
21 be electrically charged or recharged.”.

22 (b) CLERICAL AMENDMENT.—The analysis for chap-
23 ter 51 is amended by inserting after the item relating to
24 section 5110 the following:

“Sec. 5111. Transportation of lithium cells and batteries on board aircraft.”.

1 **SEC. 202. REQUIREMENTS RELATING TO EXTERNAL PROD-**
2 **UCT PIPING ON CARGO TANKS TRANS-**
3 **PORTING FLAMMABLE LIQUID.**

4 (a) IN GENERAL.—Chapter 51 is amended by insert-
5 ing after section 5117 the following:

6 **“§ 5118. Requirements relating to external product**
7 **pip ing on cargo tanks transporting flam-**
8 **mable liquid**

9 “(a) IN GENERAL.—

10 “(1) PROHIBITION FOR NEW CARGO TANK
11 MOTOR VEHICLES.—Subject to subsection (b), the
12 Secretary shall prohibit the transportation of a Class
13 3 flammable liquid in the external product piping of
14 a cargo tank motor vehicle manufactured on or after
15 the 2-year period beginning on the date of enact-
16 ment of the Hazardous Material Transportation
17 Safety Act of 2009.

18 “(2) PROHIBITION FOR EXISTING CARGO TANK
19 MOTOR VEHICLES.—Subject to subsection (b), no
20 person may offer for transportation or transport a
21 Class 3 flammable liquid in the external product pip-
22 ing of a cargo tank motor vehicle on or after Decem-
23 ber 31, 2020.

24 “(b) LIMITATION ON APPLICABILITY.—Subsection
25 (a) does not apply—

1 “(1) to a cargo tank motor vehicle designed and
2 constructed with engine, body, and cargo tank per-
3 manently mounted on the same chassis with product
4 piping protected from impact by another motor vehi-
5 cle by the structural components of the cargo tank
6 motor vehicle, such as damage protection guards,
7 framing members, or wheel assemblies; or

8 “(2) to a minimal amount, as determined by
9 the Secretary by regulation, of hazardous material
10 residue that remains in the external product piping
11 after the piping is drained.

12 “(c) ENFORCEMENT PERSONNEL.—

13 “(1) IN GENERAL.—The Secretary shall issue
14 guidance to motor carrier safety enforcement per-
15 sonnel on how to conduct inspections of cargo tank
16 motor vehicles in a manner that ensures safety. The
17 guidance shall prohibit such enforcement personnel
18 from opening valves of external product piping dur-
19 ing inspections or conducting any other activity that
20 could cause the release of hazardous material at the
21 inspection site.

22 “(2) CONSULTATION.—In developing the guid-
23 ance under paragraph (1), the Secretary shall con-
24 sult with a nonprofit organization comprised of Fed-

1 eral, State, and local motor carrier safety enforce-
2 ment personnel.

3 “(d) WORKER SAFETY.—

4 “(1) IN GENERAL.—The Secretary and the Sec-
5 retary of Labor shall each review and update, as ap-
6 propriate, existing standards of the Secretary to en-
7 sure that personnel who conduct any activities pur-
8 suant to this section, including welding, are ade-
9 quately protected.

10 “(2) CONSULTATION.—In conducting the review
11 and update under paragraph (1), the Secretary and
12 the Secretary of Labor shall each consult, as appro-
13 priate, with a nonprofit organization representing
14 employees of cargo tank motor vehicle operators and
15 a nonprofit organization representing cargo tank
16 motor vehicle owners and operators.

17 “(e) DEFINITIONS.—In this section:

18 “(1) CARGO TANK MOTOR VEHICLE.—The term
19 ‘cargo tank motor vehicle’ has the meaning given
20 such term in part 171 of title 49, Code of Federal
21 Regulations, as in effect on the date of enactment of
22 the Hazardous Material Transportation Safety Act
23 of 2009.

24 “(2) CLASS 3 FLAMMABLE LIQUID.—The term
25 ‘Class 3 flammable liquid’ has the meaning given

1 such term in section 173.120(a) of title 49, Code of
 2 Federal Regulations, as in effect on the date of en-
 3 actment of the Hazardous Material Transportation
 4 Safety Act of 2009.”.

5 (b) CLERICAL AMENDMENT.—The analysis for chap-
 6 ter 51 is amended by inserting after the item relating to
 7 section 5117 the following:

“5118. Requirements relating to external product piping on cargo tanks trans-
 porting flammable liquid.”.

8 **SEC. 203. IMPROVING DATA COLLECTION, ANALYSIS, AND**
 9 **REPORTING.**

10 (a) ESTABLISHMENT OF WORKING GROUP.—Not
 11 later than 60 days after the date of enactment of this Act,
 12 the Secretary shall establish a working group for the pur-
 13 pose of improving the collection, analysis, reporting, and
 14 use of data related to accidents and incidents involving
 15 the transportation of hazardous material.

16 (b) MEMBERSHIP.—The working group shall consist
 17 of the following:

18 (1) At least 1 representative of each of the fol-
 19 lowing agencies, to be appointed by the head of the
 20 agency:

21 (A) The Federal Aviation Administration.

22 (B) The Federal Motor Carrier Safety Ad-
 23 ministration.

24 (C) The Federal Railroad Administration.

1 (D) The Coast Guard.

2 (E) The Pipeline and Hazardous Materials
3 Safety Administration.

4 (2) Such other officers or employees of the De-
5 partment as the Secretary may appoint.

6 (c) DUTIES.—The working group shall—

7 (1) review the Pipeline and Hazardous Mate-
8 rials Safety Administration’s methods for collecting,
9 analyzing, and reporting accidents and incidents in-
10 volving the transportation of hazardous material, in-
11 cluding the adequacy of—

12 (A) information requested on the accident
13 and incident reporting forms required to be
14 submitted to the Administration;

15 (B) methods used by the Administration to
16 verify that the information provided on such
17 forms is accurate and complete;

18 (C) resources of the Administration related
19 to data collection, analysis, and reporting, in-
20 cluding staff and information technology; and

21 (D) the database used by the Administra-
22 tion for recording and reporting such accidents
23 and incidents, including the ability of users to
24 adequately search the database and find infor-
25 mation;

1 (2) make recommendations to the Administra-
2 tion for improving the collection, analysis, reporting,
3 and use of such data; and

4 (3) such other duties as the Secretary deter-
5 mines are appropriate.

6 (d) DEVELOPMENT OF ACTION PLAN.—Not later
7 than 90 days after the date of enactment of this Act, tak-
8 ing into consideration the recommendations made by the
9 working group, the Secretary shall develop an action plan
10 and timeline for improving the collection, analysis, report-
11 ing, and use of data by the Administration, including re-
12 vising the database of the Administration, as appropriate.

13 (e) SUBMISSION TO CONGRESS.—Not later than 15
14 days after the date of development of the action plan and
15 timeline under subsection (d), the Secretary shall submit
16 the action plan and timeline to the Committee on Trans-
17 portation and Infrastructure of the House of Representa-
18 tives and the Committee on Commerce, Science, and
19 Transportation of the Senate.

20 **TITLE III—STRENGTHENING** 21 **ENFORCEMENT**

22 **SEC. 301. HAZARDOUS MATERIAL ENFORCEMENT TRAIN-** 23 **ING PROGRAM.**

24 (a) IN GENERAL.—The Secretary shall carry out a
25 hazardous material enforcement training program—

1 (1) to develop uniform performance standards
2 for training hazardous material inspectors and inves-
3 tigators;

4 (2) to train hazardous material inspectors and
5 investigators on how to collect, analyze, and publish
6 findings from inspections and investigations of acci-
7 dents or incidents involving the transportation of
8 hazardous material; and

9 (3) to train hazardous material inspectors and
10 investigators on how to identify noncompliance with
11 regulations issued under chapter 51 of title 49,
12 United States Code, and take appropriate enforce-
13 ment action.

14 (b) STANDARDS AND GUIDELINES.—Under the pro-
15 gram, the Secretary may develop—

16 (1) guidelines for hazardous material inspector
17 and investigator qualifications;

18 (2) best practices and standards for hazardous
19 material inspector and investigator training pro-
20 grams; and

21 (3) standard protocols to coordinate investiga-
22 tion efforts among Federal, State, and local jurisdic-
23 tions on accidents or incidents involving the trans-
24 portation of hazardous material.

1 (c) AVAILABILITY.—The Secretary may make the
2 standards, protocols, and findings of the program de-
3 scribed in this section available to Federal, State, and
4 local hazardous material safety enforcement personnel.

5 **SEC. 302. INSPECTIONS AND INVESTIGATIONS.**

6 (a) NOTICE OF ENFORCEMENT MEASURES.—Section
7 5121(c)(1) is amended—

8 (1) in subparagraph (E) by striking “and” at
9 the end;

10 (2) in subparagraph (F) by striking the period
11 at the end and inserting “; and”; and

12 (3) by adding at the end the following:

13 “(G) shall provide to the affected offeror,
14 carrier, packaging manufacturer or tester, or
15 other person responsible for the package rea-
16 sonable notice of any findings made and actions
17 being taken as a result of a finding of non-
18 compliance.”.

19 (b) REGULATIONS.—Section 5121(e) is amended by
20 adding at the end the following:

21 “(3) MATTERS TO BE ADDRESSED.—In issuing
22 the regulations to carry out subsections (c) and (d),
23 the Secretary shall address, at a minimum, the fol-
24 lowing:

1 “(A) Safe and expeditious resumption of
2 transportation of perishable hazardous material,
3 including radiopharmaceuticals and other med-
4 ical products, that may require timely delivery
5 due to life-threatening situations.

6 “(B) Appropriate training and equipment
7 for inspectors.

8 “(C) The proper closure of packaging in
9 accordance with the hazardous material regula-
10 tions.”.

11 (c) GRANTS AND COOPERATIVE AGREEMENTS.—Sec-
12 tion 5121(g)(1) is amended by striking “security” and in-
13 serting “safety and security”.

14 (d) AUTHORITY TO CONDUCT INVESTIGATIONS.—
15 Section 5121 is amended by adding at the end the fol-
16 lowing:

17 “(i) ACCIDENT OR INCIDENT INVESTIGATIONS.—

18 “(1) IN GENERAL.—A designated officer, em-
19 ployee, or agent of the Secretary may investigate an
20 accident or incident involving the transportation of
21 hazardous material.

22 “(2) AUTHORITIES IN CONDUCTING INVESTIGA-
23 TIONS.—In conducting an investigation of an acci-
24 dent or incident involving the transportation of haz-

1 ardous material, a designated officer, employee, or
2 agent of the Secretary may—

3 “(A) enter property;

4 “(B) subpoena witnesses;

5 “(C) require the production of records, ex-
6 hibits, and other evidence;

7 “(D) administer oaths; and

8 “(E) take testimony.

9 “(3) COORDINATION WITH STATE INVESTIGA-
10 TIONS.—If an accident or incident involving the
11 transportation of hazardous material is investigated
12 by the State in which such accident or incident oc-
13 curred, the Secretary, to the extent practicable, shall
14 coordinate any investigation conducted by the Sec-
15 retary with respect to such accident or incident with
16 the State’s investigation.

17 “(4) AUTHORITY OF NATIONAL TRANSPOR-
18 TATION SAFETY BOARD.—Pursuant to chapter 11,
19 the National Transportation Safety Board retains
20 authority to lead the investigation into an accident
21 or incident involving the transportation of hazardous
22 material. The Secretary shall use the Secretary’s au-
23 thority under this paragraph to support any inves-
24 tigation the Board undertakes.

1 “(5) REPORTS.—When the Secretary deter-
 2 mines it to be in the public interest, the Secretary
 3 shall make available to the public the results of an
 4 investigation conducted by the Secretary with re-
 5 spect to an accident or incident involving the trans-
 6 portation of hazardous material, including a state-
 7 ment of the cause of the accident or incident and
 8 such recommendations as the Secretary considers
 9 appropriate.”.

10 **SEC. 303. CIVIL PENALTIES.**

11 Section 5123 is amended by adding at the end the
 12 following:

13 “(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS
 14 AND INVESTIGATIONS.—The Secretary may impose a pen-
 15 alty on a person who obstructs or prevents the Secretary
 16 from carrying out inspections or investigations under sec-
 17 tion 5121(c) or 5121(i).

18 “(i) PROHIBITION ON HAZARDOUS MATERIAL OPER-
 19 ATIONS AFTER NONPAYMENT OF PENALTIES.—

20 “(1) IN GENERAL.—A person subject to the ju-
 21 risdiction of the Secretary under this chapter for
 22 whom a civil penalty is assessed under this chapter
 23 and who does not pay such penalty or fails to ar-
 24 range and abide by an acceptable payment plan for
 25 such civil penalty may not conduct any activity regu-

1 lated under this chapter beginning on the 91st day
2 after the date specified by order of the Secretary for
3 payment of such penalty.

4 “(2) EXCEPTION.—Paragraph (1) shall not
5 apply to any person who is unable to pay a civil pen-
6 alty because such person is a debtor in a case under
7 chapter 11 of title 11, United States Code.

8 “(3) RULEMAKING REQUIRED.—Not later than
9 24 months after the date of the enactment of this
10 subsection, the Secretary, after providing notice and
11 an opportunity for public comment, shall issue regu-
12 lations setting forth procedures to require a person
13 who is delinquent in paying civil penalties to cease
14 any activity regulated under this chapter until pay-
15 ment has been made or an acceptable payment plan
16 has been arranged. The regulation shall ensure that
17 the person is notified in writing and given an oppor-
18 tunity to respond before the person is required to
19 cease the activity.”.

20 **SEC. 304. ADDITIONAL RESOURCES.**

21 (a) IN GENERAL.—The Secretary shall increase the
22 personnel of the Pipeline and Hazardous Materials Safety
23 Administration by a total of 84 full-time employees to
24 carry out the hazardous material safety program and the
25 administration of that program, of which—

1 (1) 24 employees shall be added in fiscal year
2 2010;

3 (2) 40 employees shall be added in fiscal year
4 2011; and

5 (3) 20 employees shall be added in fiscal year
6 2012.

7 (b) FUNCTIONS.—In increasing the number of em-
8 ployees pursuant to subsection (a), the Secretary shall
9 focus on hiring employees to—

10 (1) conduct data collection, analysis, and re-
11 porting;

12 (2) develop, implement, and update information
13 technology utilized by the Pipeline and Hazardous
14 Materials Safety Administration;

15 (3) implement the requirements of section 5117
16 of title 49, United States Code;

17 (4) conduct routine inspections and audits of
18 persons who transport, cause to be transported, or
19 offer for transportation hazardous material;

20 (5) support hazardous material enforcement ac-
21 tivities of the Pipeline and Hazardous Materials
22 Safety Administration, including training of haz-
23 ardous material enforcement personnel; and

1 (6) support the overall hazardous material safe-
 2 ty mission of the Pipeline and Hazardous Materials
 3 Safety Administration.

4 (c) SPECIFIC DUTIES.—Of the number of additional
 5 full-time employees added each fiscal year by subsection
 6 (a), not less than 10 of such employees each fiscal year
 7 shall be assigned to perform the function described in sub-
 8 section (b)(4).

9 **TITLE IV—MISCELLANEOUS**

10 **SEC. 401. SPECIAL PERMITS, APPROVALS, AND EXCLU-** 11 **SIONS.**

12 (a) IN GENERAL.—Section 5117 is amended to read
 13 as follows:

14 **“§ 5117. Special permits, approvals, and exclusions**

15 “(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

16 “(1) CONDITIONS.—As provided under proce-
 17 dures prescribed by regulation, the Secretary may
 18 issue, modify, or terminate a special permit author-
 19 izing a variance from this chapter or a regulation
 20 prescribed under section 5103(b), 5104, 5110, or
 21 5112 to a person performing a function regulated by
 22 the Secretary under section 5103(b)(1) in a way
 23 that achieves a safety level—

24 “(A) at least equal to the safety level re-
 25 quired under this chapter; or

1 “(B) consistent with the public interest
2 and this chapter, if a required safety level does
3 not exist.

4 “(2) FINDINGS REQUIRED.—

5 “(A) IN GENERAL.—Prior to issuing, re-
6 newing, or modifying a special permit or grant-
7 ing party status to a special permit, the Sec-
8 retary shall determine that the person is fit,
9 willing, and able to conduct the activity author-
10 ized by such permit in a manner that achieves
11 the level of safety required under paragraph
12 (1).

13 “(B) CONSIDERATIONS.—In making the
14 determination under subparagraph (A), the
15 Secretary shall consider the person’s safety his-
16 tory (including prior compliance history), acci-
17 dent and incident history, and any other infor-
18 mation the Secretary considers appropriate to
19 make such a determination.

20 “(3) EFFECTIVE PERIOD.—A special permit
21 issued under this section shall be effective for an ini-
22 tial period of not more than 2 years and may be re-
23 newed by the Secretary upon application for succes-
24 sive periods of not more than 4 years each or, in the

1 case of a special permit relating to section 5112, for
2 an additional period of not more than 2 years.

3 “(b) APPLICATIONS.—

4 “(1) REQUIRED DOCUMENTATION.—When ap-
5 plying for a special permit or renewal or modifica-
6 tion of a special permit or requesting party status
7 to a special permit under this section, the Secretary
8 shall require the person to submit an application
9 that contains, at a minimum, a detailed description
10 of the person’s request, a listing of the person’s fa-
11 cilities and addresses where the special permit will
12 be utilized, a safety analysis prescribed by the Sec-
13 retary that justifies the special permit, documenta-
14 tion to support the safety analysis, and, if applica-
15 ble, verification of registration as required by section
16 5108.

17 “(2) PUBLIC NOTICE.—The Secretary shall
18 publish in the Federal Register notice that an appli-
19 cation for a special permit has been filed and shall
20 provide the public an opportunity to inspect and
21 comment on the application.

22 “(3) SAVINGS CLAUSE.—This subsection does
23 not require the release of information protected by
24 law from public disclosure.

1 “(c) COORDINATION WITH MODAL CONTACT OFFI-
2 CIALS.—

3 “(1) IN GENERAL.—In evaluating applications
4 under subsection (b) and making the findings and
5 determinations under subsections (a), (e), and (h),
6 the Administrator of the Pipeline and Hazardous
7 Materials Safety Administration shall consult and
8 coordinate with the modal contact official responsible
9 for the mode of transportation that will be utilized
10 under a special permit or approval prior to issuing,
11 modifying, or renewing the special permit, granting
12 party status to the special permit, or issuing or re-
13 newing the approval.

14 “(2) DISPUTE RESOLUTION.—The Secretary
15 shall develop a procedure for resolving a dispute be-
16 tween the Administrator and a modal contact official
17 to ensure that any concern raised by such official is
18 appropriately addressed and resolved.

19 “(3) MODAL CONTACT OFFICIAL DEFINED.—In
20 this section, the term ‘modal contact official’
21 means—

22 “(A) the Administrator of the Federal
23 Aviation Administration;

24 “(B) the Administrator of the Federal
25 Motor Carrier Safety Administration;

1 “(C) the Administrator of the Federal
2 Railroad Administration; or

3 “(D) the Commandant of the Coast Guard.

4 “(d) APPLICATIONS TO BE DEALT WITH PROMPT-
5 LY.—The Secretary shall issue, modify, renew, or grant
6 party status to a special permit for which a request was
7 filed in accordance with this section, or deny such
8 issuance, modification, renewal, or grant, on or before the
9 last day of the 180-day period beginning on the first day
10 of the month following the date of the filing of such re-
11 quest, or the Secretary shall publish a statement in the
12 Federal Register of the reason why the Secretary’s deci-
13 sion on the special permit is delayed, along with an esti-
14 mate of the additional time necessary before the decision
15 is made.

16 “(e) EMERGENCY PROCESSING OF SPECIAL PER-
17 MITS.—

18 “(1) FINDINGS REQUIRED.—The Secretary may
19 grant a request for emergency processing of a spe-
20 cial permit only if the Secretary finds—

21 “(A) it is necessary for immediate national
22 security purposes;

23 “(B) that processing on a routine basis
24 under this section would result in significant in-
25 jury to persons or property; or

1 “(C) it is necessary to prevent significant
2 economic loss that could not be prevented if the
3 application were processed on a routine basis.

4 “(2) WAIVER OF FITNESS TEST.—The Sec-
5 retary may waive the requirement under subsection
6 (a)(2) for a request for which the Secretary makes
7 a finding under paragraph (1)(A) or (1)(B).

8 “(3) NOTIFICATION.—Not later than 90 days
9 after the date of issuance of a special permit under
10 this subsection, the Secretary shall publish in the
11 Federal Register a notice of issuance with a state-
12 ment of the basis for the finding of emergency and
13 the scope and duration of the special permit.

14 “(4) EFFECTIVE PERIOD.—A special permit
15 issued under this subsection shall be effective for a
16 period of not to exceed 30 days.

17 “(f) EXCLUSIONS.—

18 “(1) IN GENERAL.—The Secretary shall ex-
19 clude, in any part, from this chapter and regulations
20 prescribed under this chapter—

21 “(A) a public vessel (as defined in section
22 2101 of title 46);

23 “(B) a vessel exempted under section 3702
24 of title 46 or from chapter 37 of title 46; and

1 “(C) a vessel to the extent it is regulated
2 under the Ports and Waterways Safety Act of
3 1972 (33 U.S.C. 1221 et seq.).

4 “(2) FIREARMS.—This chapter and regulations
5 prescribed under this chapter do not prohibit—

6 “(A) or regulate transportation of a fire-
7 arm (as defined in section 232 of title 18), or
8 ammunition for a firearm, by an individual for
9 personal use; or

10 “(B) transportation of a firearm or ammu-
11 nition in commerce.

12 “(g) LIMITATION ON AUTHORITY.—Unless the Sec-
13 retary decides that an emergency exists, a special permit
14 or renewal granted under this section is the only way a
15 person subject to this chapter may be granted a variance
16 from this chapter.

17 “(h) APPROVALS.—

18 “(1) FINDINGS REQUIRED.—

19 “(A) IN GENERAL.—Prior to issuing an
20 approval or granting renewal of an approval
21 pursuant to part 107 of title 49, Code of Fed-
22 eral Regulations, the Secretary shall determine
23 that the person is fit, willing, and able to con-
24 duct the activity authorized by the approval in

1 a manner that achieves the level of safety re-
2 quired under subsection (a)(1).

3 “(B) CONSIDERATIONS.—In making the
4 determination under subparagraph (A), the
5 Secretary shall consider the person’s safety his-
6 tory (including prior compliance history), acci-
7 dent and incident history, and any other infor-
8 mation the Secretary considers appropriate to
9 make such a determination.

10 “(2) PUBLIC NOTICE.—The Secretary shall
11 publish in the Federal Register notice that an appli-
12 cation for an approval or renewal of an approval has
13 been filed and shall give the public an opportunity
14 to inspect and comment on the application prior to
15 issuance.

16 “(3) SAVINGS CLAUSE.—This subsection does
17 not require the release of information protected by
18 law from public disclosure.

19 “(i) NONCOMPLIANCE.—The Secretary shall imme-
20 diately modify, suspend, or terminate a special permit or
21 approval if the Secretary finds that the person who was
22 granted such special permit or approval has violated such
23 special permit or approval or the regulations issued under
24 this chapter in a manner demonstrating that the person

1 is not fit to conduct the activity authorized by the special
2 permit or approval.

3 “(j) PROCEDURES.—Not later than 120 days after
4 the date of enactment of this subsection, the Secretary
5 shall—

6 “(1) develop and implement written standard
7 operating procedures to support administration of
8 the special permit and approval programs;

9 “(2) update such procedures periodically; and

10 “(3) make such procedures available to the pub-
11 lic on the Department of Transportation’s Internet
12 Web site.

13 “(k) FEES.—

14 “(1) AUTHORIZATION.—The Secretary shall es-
15 tablish a reasonable fee for processing applications
16 for, and ensuring compliance with the terms of, spe-
17 cial permits and approvals.

18 “(2) LIMITATION ON COLLECTION.—No fee
19 may be collected under this subsection unless the ex-
20 penditure of the fee to pay the costs of activities and
21 services for which the fee is imposed is provided for
22 in advance in an appropriations Act.

23 “(3) FEES CREDITED AS OFFSETTING COLLEC-
24 TIONS.—

1 “(A) IN GENERAL.—Notwithstanding sec-
 2 tion 3302 of title 31, any fee authorized to be
 3 collected under this subsection shall—

4 “(i) be credited as offsetting collec-
 5 tions to the account that finances the ac-
 6 tivities and services for which the fee is im-
 7 posed;

8 “(ii) be available for expenditure only
 9 to pay the costs of activities and services
 10 for which the fee is imposed; and

11 “(iii) remain available until expended.

12 “(4) REGULATIONS.—Not later than 12 months
 13 after the date of enactment of this subsection, the
 14 Secretary, after providing notice and an opportunity
 15 for public comment, shall issue regulations to imple-
 16 ment this subsection.”.

17 (b) RULEMAKING REQUIRED.—Not later than 6
 18 months after the date of enactment of this Act, the Sec-
 19 retary shall complete all actions necessary to adopt a regu-
 20 lation to define the term “public interest” for the purposes
 21 of section 5117(a)(1)(B) of title 49, United States Code.

22 (c) CLERICAL AMENDMENT.—The analysis for chap-
 23 ter 51 is amended by striking the item relating to section
 24 5117 and inserting the following:

“5117. Special permits, approvals, and exclusions.”.

1 **SEC. 402. UNIFORM HAZARDOUS MATERIAL STATE REG-**
2 **ISTRATION AND PERMIT PROGRAM.**

3 (a) UNIFORM FORMS AND PROCEDURES.—Section
4 5119 is amended to read as follows:

5 **“§ 5119. Uniform hazardous material State registra-**
6 **tion and permit program**

7 “(a) ESTABLISHMENT AND CONDUCT.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish and carry out a program to develop uniform
10 forms and procedures for States to register, and
11 issue permits to, persons who transport, or cause to
12 be transported, hazardous material by motor vehicle
13 in accordance with this chapter and the regulations
14 issued to carry out this chapter.

15 “(2) CONSIDERATION OF EXISTING STATE ALLI-
16 ANCE PROGRAM.—In establishing the program under
17 this subsection, the Secretary shall consider the pro-
18 gram of uniform forms and procedures for reg-
19 istering and issuing permits to persons who trans-
20 port, or cause to be transported, hazardous material
21 by motor vehicle developed by the alliance of States
22 known as the ‘Alliance for Uniform Hazmat Trans-
23 portation Procedures’.

24 “(b) REGULATIONS.—Not later than 6 years after
25 the date of enactment of the Hazardous Material Trans-

1 portation Safety Act of 2009, the Secretary shall issue
2 regulations to carry out this section.

3 “(c) FINANCIAL AND TECHNICAL ASSISTANCE AND
4 SUPPORT.—

5 “(1) IN GENERAL.—The Secretary may provide
6 planning and transition assistance to States in order
7 to encourage State adoption of the program estab-
8 lished by the Secretary under this section.

9 “(2) USE OF FUNDS.—Assistance awarded to a
10 State under this subsection may be used only to as-
11 sist the State in transitioning the existing registra-
12 tion and permitting programs of the State to the
13 program established under this section.

14 “(d) RELATED EXPENSES.—For purposes of section
15 5125(f)(1), expenses related to transporting hazardous
16 material may include costs incurred in implementing and
17 administering the program established by the Secretary
18 under this section, including costs of establishing or modi-
19 fying forms, procedures, and systems.

20 “(e) TRANSITION OF STATE PROGRAMS.—Beginning
21 on the effective date of the regulations issued to carry out
22 this section, a State may enforce registration and permit-
23 ting requirements for motor carriers that transport haz-
24 ardous material in commerce only in accordance with the
25 program established by the Secretary under this section.

(b) CLERICAL AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5119 and inserting the following:

14 SEC. 403. REGULAR REPORTING ON USE OF FEES.

17 SEC. 404. IMPLEMENTATION OF THE HAZARDOUS MATE-
18 RIAL SAFETY PERMIT PROGRAM.

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1 tion of the hazardous material safety permit program
2 under section 5109 of title 49, United States Code.

3 (b) MATTERS TO BE REVIEWED.—In conducting the
4 study, the Comptroller General shall review, at a min-
5 imum—

6 (1) the list of hazardous materials requiring a
7 safety permit;

8 (2) the number of permits that have been
9 issued, denied, revoked, or suspended since inception
10 of the program and the number of commercial motor
11 carriers that have never had a permit denied, re-
12 voked, or suspended since inception of the program;

13 (3) the reasons for such denials, revocations, or
14 suspensions;

15 (4) the criteria used by the Federal Motor Car-
16 rier Safety Administration to determine whether a
17 hazardous material safety permit issued by a State
18 is equivalent to the Federal permit; and

19 (5) the Secretary's actions to improve the per-
20 mit application process.

21 (c) RECOMMENDATIONS.—The Comptroller General
22 shall include in the report any recommendations the
23 Comptroller General has for improving the hazardous ma-
24 terial safety permit program.

1 (d) TECHNICAL CORRECTION.—Section 5109(b)(1) is
 2 amended by striking “a class A or B explosive” and insert-
 3 ing “a Division 1.1, 1.2, or 1.3 explosive”.

4 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

5 Section 5129 (as redesignated by section 104 of this
 6 Act) is amended to read as follows:

7 **“§ 5129. Authorization of appropriations**

8 “(a) IN GENERAL.—In order to carry out this chap-
 9 ter (except sections 5107(e), 5108(g)(2), 5113, 5115,
 10 5116, and 5119), the following amounts are authorized
 11 to be appropriated to the Secretary:

12 “(1) For fiscal year 2010, \$39,800,000.

13 “(2) For fiscal year 2011, \$51,296,000.

14 “(3) For fiscal year 2012, \$58,641,920.

15 “(4) For fiscal year 2013, \$61,414,758.

16 “(5) For fiscal year 2014, \$62,643,054.

17 “(b) HAZARDOUS MATERIALS EMERGENCY PRE-
 18 PAREDNESS FUND.—There shall be available to the Sec-
 19 retary, from the account established pursuant to section
 20 5116(i), for each of fiscal years 2010 through 2014 the
 21 following:

22 “(1) To carry out section 5115, \$198,000.

23 “(2) To carry out sections 5116(a) and
 24 5116(b), \$21,800,000, except that no less than

1 \$13,650,000 shall be available to carry out section
2 5116(b).

3 “(3) To carry out section 5116(f), \$150,000.

4 “(4) To publish and distribute the Emergency
5 Response Guidebook under section 5116(i)(3),
6 \$625,000.

7 “(5) To carry out section 5116(j), \$1,000,000.

8 “(c) HAZMAT TRAINING GRANTS.—There shall be
9 available to the Secretary, from the account established
10 pursuant to section 5116(i), to carry out section 5107(e)
11 \$4,000,000 for each of fiscal years 2010 through 2014.

12 “(d) CREDITS TO APPROPRIATIONS.—The Secretary
13 may credit to any appropriation to carry out this chapter
14 an amount received from a State, Indian tribe, or other
15 public authority or private entity for expenses the Sec-
16 retary incurs in providing training to the State, authority,
17 or entity.

18 “(e) AVAILABILITY OF AMOUNTS.—Amounts made
19 available by or under this section shall remain available
20 until expended.”.

○